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Estate planning: Protecting your family

American Institute of Certified Public Accountants. Communications Division

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Tax considerations

The tax claims on your estate may significantly decrease the portion that passes to your beneficiaries. Federal estate taxes are due nine months after death, but payment may be extended for an additional six months for good reason. It is advisable to consult with a CPA for information on estate, inheritance, and gift taxes on both the federal and state levels. However, here are some basic estate tax planning considerations of importance.

Unlimited Marital Deduction—You may leave an unlimited amount of assets to your spouse without any estate tax liability. However, when your surviving spouse dies, tax may be charged against his or her estate, which would include the assets he or she received from your estate. This may result in a larger estate tax than would be the case if you both make good use of the unified credit discussed below.

Unified Credit—Individuals are entitled to a lifetime unified gift and estate tax credit allowing \$600,000 of assets to pass tax-free to their beneficiaries. Couples who wish to get the most out of the unified credit can set up marital life estate trusts. Through a marital trust, an estate of up to \$1.2 million can be transferred without tax liability. When the first spouse dies, the property in the trust generates lifetime income for the survivor; the property itself is owned by the trust. When the surviving spouse dies, the trust assets bypass his or her estate, often going directly to the children.

Transfer Tax Rates—An estate tax return must be filed if your gross estate exceeds the tax-exempt amount of \$600,000. Estate tax rates begin at an effective 37 percent rate and rise to a maximum of 55 percent on the portion of an estate over \$3 million.

Gifts—Gifts are a classic way of reducing an estate and the related taxes. You are allowed to make yearly tax-exempt gifts of up to \$10,000 per recipient or up to \$20,000 with your spouse's consent. Making gifts in excess of the exclusion amounts will have an impact on the lifetime unified credit and gift and estate taxes. Contact your CPA for specific details since the rules are complex.

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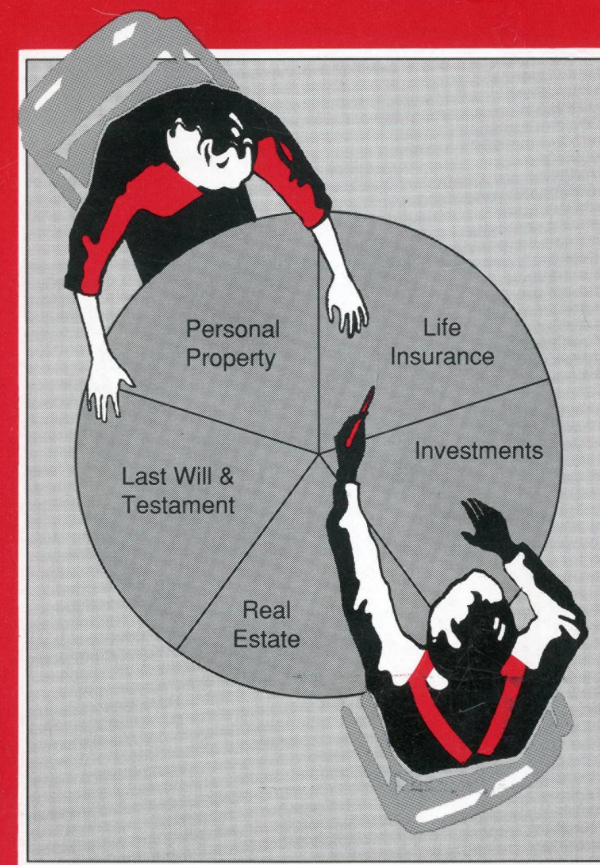
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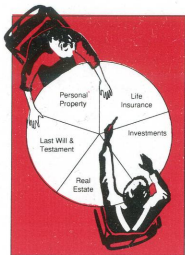
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A CONSUMER GUIDE

ESTATE PLANNING

*Protecting
Your
Family*





Everything you own at the time of your death may be considered part of your estate, including your home, bank accounts, insurance policies, and any of your other assets. Have you ever stopped to think about what will become of all that when you're gone? Don't

assume it will be distributed according to your wishes. The fact is that if you haven't done the necessary planning, you don't have much control over what happens to your estate after your death.

CPAs recommend that you develop an estate plan as soon as possible so that you can transfer your property exactly as you choose. Effective planning may also help to minimize the taxes on your estate and maximize the inheritance for your beneficiaries. Carried out competently, estate planning will make the transition to a life without you easier for your family.

What does estate planning entail?

The most critical component of an effective estate plan is a properly prepared will—one which transfers your assets in accordance with your wishes. Additionally, you must consider the probate process and the possible tax liabilities of your estate. CPAs can assist you in creating an estate plan by making in-depth financial projections and estate calculations.

It is crucial that you plan for the distribution of your estate throughout your life. Once you've developed a plan designed to accomplish your goals, you should review the plan annually to ensure that it is still effective. Personal changes, such as increased net worth, marriage, divorce, or the birth of a child, could make your present plan unworkable. Estate and income tax law changes could also render your present plan less effective.

Your will

Writing a will protects your family and ensures that your wishes will be carried out. Anyone of legal age with any property should have a will. If you die without a will, or what is known as *intestate*, your estate will be distributed as determined by state law and administered by someone appointed by a court. What's worse, the court will decide who will care for your minor children. Dying intestate also can increase the tax burden for your heirs and cause dissension within your family.

A will enables you to—

- Distribute your property as you wish, including personal property of sentimental value.
- Provide for future management of investments or a family business.
- Designate guardians for your minor children.
- Select the person you want to distribute your estate, eliminating the necessity of an expensive, court-appointed administrator.
- Minimize taxes and administration expenses in the settlement of your estate.
- Provide for special desires, such as charitable contributions.

Naming an executor. An executor should be named in your will to see that its provisions are carried out. Select someone you can trust and who has both the time and the financial know-how, since he or she will have many responsibilities.

The executor must—

- Prepare a complete inventory of all your assets.
- Collect any money owed to you.
- Pay your debts and expenses, as well as those of your estate, including funeral expenses, tax liabilities, and administration expenses.
- Notify life insurance companies of your death.
- Sell assets as necessary and invest others prudently to provide income during the time that the estate is being administered.
- Prepare and file all necessary tax returns for you and your estate.
- Distribute the estate to the people named in your will.
- Account for all receipts and disbursements of the estate.

Naming guardians. Similarity in approaches to child-raising is an important factor to consider when selecting guardians for your minor children. In addition, you may want to discuss possible guardians with your children and use their views in forming your decision. If you are seriously concerned with the financial discipline of prospective guardians, consider naming a separate trustee to manage the money and property left to the children. In most cases, however, it is wise to select guardians who will not only love and care for your children, but who are financially responsible as well.

What is probate? Probate is the legal process of proving that a will is valid and ensuring that assets are distributed fairly. If you leave a will, your designated executor takes care of the legal formalities. If you don't, the probate court will appoint an administrator. The probate process is a matter of public record. You can bypass probate and gain a measure of privacy by distributing your assets through joint ownership, trusts, or gifts while you are alive, instead of through a will. Avoiding probate may result in significant savings in legal fees. However, bypassing probate does not eliminate or reduce estate taxes.

How long does settlement take? An estate not subject to probate may be settled relatively quickly. In contrast, a probate estate takes time to settle because there are so many variables involved. Creditors must be allowed an opportunity to come forward and file any claims. A simple estate may take three months to a year to settle—a complicated one may take two to three years, or even more. However, in special circumstances, preliminary distributions may be made from your estate during the settlement process.

Life insurance

Life insurance is an essential estate planning tool because it provides immediate cash for survivors. Since proceeds are readily available, life insurance protects your family from being forced to liquidate some of your other assets to meet living expenses. Life insurance can also help your survivors pay debts, including estate taxes. Generally, insurance passes directly to the beneficiary and does not have to go through the probate process.

Get professional assistance

Planning for your survivors should begin as soon as you have acquired assets or when you become legally responsible for minor children. Be sure you consult with an experienced attorney when you draw up your will. With effective planning, you can lessen the tax burden on your estate and be confident that your beneficiaries will receive everything that the law allows.

CPAs have knowledge of tax law and can tell you the probable tax effects of estate planning decisions. Your CPA and attorney can work as a team in formulating an estate plan that is right for you. CPAs can also assist your beneficiaries.